

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.2049 of 2006

DATE OF DECISION:11.05.2007

Ranjeet Singh

.....Petitioner

Versus

Gram Panchayat, Sanghore

.....Respondent

CORAM:- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present:- Shri Arvind Singh, Advocate
for the petitioner.

Shri SS Rathore, Advocate
for the respondent.

The plaintiff has filed this petition under Article 227 of the Constitution of India for setting aside the order dated 14.3.2006 passed by Civil Judge (Jr. Divn.), Kurukshetra, whereby, his application under Order 39 Rule 1 & 2 CPC for interim injunction has been dismissed as well as order dated 28.3.2006 passed by Additional District Judge, Kurukshetra, whereby, the appeal filed by the petitioner against the said order was also dismissed.

In this case, the petitioner claims himself to be in cultivating possession of the land comprising in khasra No. 2243 (4-0), 2244/2 (4-0), 2245 (3-6) and 2246 (1-6), which is 12 Bagha 12 biswas situated in village Singhore, Tehsil and District Kurukshetra. It is the case of the plaintiff that earlier the suit land was being cultivated by his grand father and after his death it was being cultivated by Telu Ram and Karta Ram, his uncle and father, respectively. It has been further stated that after their death, plaintiff is cultivating the suit land. It is alleged that the Gram Panchayat is neither

the owner and in possession of the suit land nor it has ever planted any trees on the same.

In the written statement filed by the Gram Panchayat, it has been claimed that the land in dispute was '**shamlat deh**' being used as **Chrarand** and the same vests in the Gram Panchayat under the provisions of Punjab Village Common Lands Regulations Act, 1961. It has been also contended that the plaintiff or his predecessor never remained in the possession of the suit land. Defendant-Gram Panchayat has also raised the issue of jurisdiction of the civil court and maintainability of the suit.

The learned trial court after taking into consideration the documents available on record came to the conclusion that as per the available revenue record, the plaintiff is not in possession of the suit land and his claim that he or his predecessors were in possession of the suit land from the last 50 years was found to be false and frivolous and consequently dismissed the application after coming to the conclusion that neither the plaintiff is having any prima facie case in his favour nor any balance of convenience lies in his favour. The first appellate Court while dismissing the appeal filed by the petitioner has observed as under:-

“In jamabandi for the year 1951-52 in which name of shamlat patti has been recorded in the column of ownership and charand has been recorded in the cultivation. Alongwith other numbers disputed numbers 2243,2244/1,2245/2,2245 and 2246 are also included. Copy of jamabandi for the year 1980 has also been placed on record, instead of Charand the name of Kiru has been recorded in the column of cultivation. Instead of shamlat patti, name of gram panchayat has been recorded in the column of ownership. It is pertinent to mention here that vide mutation No.757, from the name of shamlat patti, shamlat

land stood transferred in the name of gram panchayat. In the subsequent jamabandies and even in the jamabandi for the year 1965-66 the name of gram panchayat finds mention in the ownership column. The copy of jamabandi for the year 1985-86 has also been placed on record by learned counsel for the gram panchayat. In the said jamabandi name of Kiru has been mentioned in the column of cultivation. It is also pertinent to mention here that along with khasra Nos. 2114,2123 and 2129 khasra no.2244/2, 2245,2246, which are in dispute, are also included. The gram panchayat has tried to show that these lands were given on auction to different bidders at different times. Learned counsel for gram panchayat has placed on record copy of register pertaining to lease for the year 1980-81, in which khasra nos. 2244/1,2244/2, 2245 and 2246 have also been mentioned which were auctioned by the Govt. The copy of resolution dated 20.7.1996 has been placed on record vide which, the trees which were planted in Khasra No.2243, 2244,2245 and 2246 were ordered to be cut by the Forest Department. Learned counsel for the gram panchayat has also places on record copy of order passed in civil writ petition No.5782 of 1991 titled as Kiru Vs. State of Haryana. By way of said order, two civil writ petitions No.5791/91 and 5782/91 were disposed of. Kiru was ordered to be ejected from land measuring 19 bighas 6 biswas comprised in Khasra No.2114, 2123, 2129, 2244, 2245 and 2246. Vide order dated 10.4.2003 passed by the Hon'ble High Court civil writ petition filed by Narata (another petitioner) and Kiru were dismissed along with costs of Rs.10,000/- in each petition. After decision

of the writ petitions by the Hon'ble High Court, gram panchayat had filed application against Kiru on 17.11.2005 in the court of Collector, Kurukshetra and vide order dated 27.2.2006, passed by Collector Kurukshetra the case was ordered to be adjourned sine die till the entry in the revenue record is made in view of the judgment pronounced in case titled as Jai Singh Vs. State of Haryana. Learned counsel for the appellant has wrongly interpreted the observations of the Hon'ble High Court in Jai Singh's case (Supra). It would not automatic transfer of the property from the name of gram panchayat to the name of proprietors, rather the proprietors were required to go to the revenue courts for entering their ownership. Since the ownership of plaintiff has not been entered into the revenue record, by the revenue authorities, though in lieu of Jai Singh's case yet it is hereby observed that the appellant-plaintiff has failed to prove his ownership over the suit land. It has also been proved on the record that trees were planted by the Forest Department and on the land belonging to gram panchayat. The gram panchayat cannot be restrained from cutting the trees standing on Khasra nos. 2243, 2244, 2245 and 2246.

I have heard counsel for the parties.

With regard to the shamlat land of this village, earlier also a litigation came to this Court, when some of the residents of the village claiming themselves to be in possession of the suit land being proprietors of the village filed CWP No. 5781 of 1991. In that writ petition the land in dispute was 19 bighas 6 biswas comprising in khasra Nos. 2114,2123,2129,2244,2245 and 2246 situated in the same village. In the

said writ petition the same contentions were raised. The said Writ Petition was dismissed with costs of Rs. 10,000/- by this Court vide order dated 10.4.2003. Even LPA against the said judgement has been dismissed. In the said writ petition Khasra Nos. 2244,2245 and 2246 were also the subject matter of the dispute. The first appellate Court has taken into consideration the said fact while dismissing the appeal of the petitioner. Even jurisdiction of the civil court is also barred because the question whether the particular piece of land is shamlat deh or not, and it vests in the Gram Panchayat or not is to be gone into by the authority under the Punjab Village Common Lands Regulations Act, 1961.

Keeping in view all these facts, I do not find any illegality or perversity in the impugned orders passed by both the Courts below.

Dismissed.

May 11, 2007
pooja

(SATISH KUMAR MITTAL)
JUDGE